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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/729,224	12/05/2000	Bruno Bret	09159.0001	6612

7590 09/10/2003

Finnegan Henderson Farabow  
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Washington, DC 20005-3315

EXAMINER

LAMM, MARINA

ART UNIT	PAPER NUMBER
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1616

DATE MAILED: 09/10/2003

19

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/729,224

Applicant(s)

BRET ET AL.

Examiner

Marina Lamm

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/5/03 has been entered.

***Status of the Claims***

2. Claims pending are 1-16. Claims 8-16 are new. Claims 1-7 have been amended. The limitations added by the present amendment have been considered previously.

***Claim Rejections - 35 USC § 103***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. The rejection of Claims 1-7 under 35 U.S.C. 103(a) as being unpatentable over Nielsen et al. is maintained for the reasons of the record.

5. The rejection of Claims 1-7 under 35 U.S.C. 103(a) as being unpatentable over Mackey et al. in view of either Bret et al. or de Haut et al. is maintained for the reasons of the record. New Claims 8-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mackey et al. in view of either Bret et al. or de Haut et al. for the reasons of the record.

***Response to Arguments***

6. Applicant's arguments filed 6/5/03 have been fully considered but they are not persuasive.

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7. With respect to the rejection over Nielsen et al. reference, the Applicant argues that Nielsen's compositions are substantially free of solvent or water, while the instant claims require at least about 50% by weight of the volatile liquid vehicle. In response, it is noted that Nielsen et al. teach that for some applications "it may be necessary to utilize water as a solvent" and to employ water-borne additive compositions "which have a conventional water content". See p. 35.

8. With respect to the rejection over Mackey et al. in view of either Bret et al. or de Haut et al., the Applicant argues that Mackey's compositions are substantially free (contain less than 5%) of solvent or water, while the instant claims require at least about 50% by weight of the volatile liquid vehicle. In response, it is noted that supplemental references, Bret et al. or de Haut et al., remedy this deficiency by teaching aqueous compositions that are liquid at a temperature of at least 5° C.

### ***Conclusion***

9. This is a RCE of applicant's earlier Application No. 09/729,224. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until

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after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

*Allowable Subject Matter*

10. The following claims drafted by the examiner and considered to distinguish patentably over the art of record in this application, are presented to applicant for consideration:

Claim 1. A process for depositing, at room temperature, a softening lotion on an absorbent paper product, which lotion is a liquid at room temperature and is of the type comprising one or more emollient active substances as a dispersion or as an emulsion in a volatile liquid vehicle, wherein the proportion by weight of the volatile liquid vehicle is at least about 50%, by directly spraying the lotion on said paper product by means of a stream of air under pressure of at least about 1 bar to about 5 bar so as to remove at least part of the volatile liquid vehicle in order to form and spray fine droplets of lotion, having a low proportion of volatile liquid vehicle, which are deposited on at least one face of the paper product.

Claim 2. Cancel

Claims 3-6. Unchanged

Claims 7-16. Cancel

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marina Lamm whose telephone number is (703) 306-4541.

The examiner can normally be reached on Monday to Friday from 9 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page, can be reached at (703) 308-2927.

The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

ml  
9/7/03

THURMAN K. PAGE, J.D.  
SUPERVISORY PATENT EXAMINER

*TK Page*